

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/693,780  
Applicant : Douglas R. Swarts  
Filed : 10/24/2003  
TC/A.U. : 3753  
Examiner : Lee, Cloud K  
Confirmation No. : 1984  
Docket No. : 006386.P001 changed to PFI-P001  
Customer No. : 40418

Commissioner for Patents

**COMMUNICATED VIA EFS TO USPTO on 26 June 2008**

RESPONSE TO Paper 20080619

Sir:

In response to the Paper 20080619 ("Office") communicated to Applicant on this date 26 June 2008, Applicant responds as follows:

**Remarks/Arguments** begin on page 2 of this communication.

This communication contains 11 pages total (8 written response, 3 Exhibit).

## **REMARKS/ARGUMENTS**

Paper 20080619 was communicated to Applicant on 26 June 2008. Please see Exhibit B for the notice of communication and the communication. These are from the IFW as maintained by the USPTO and were retrieved on 6/26/08.

### **Paragraph 1**

Paper 20080819 states in paragraph 1:

The amendment filed on 7/26/07 is unsigned or contains[sic] an improper signature in accordance with 37CFR1.4(d)(2)(i). Firstly, the S-signature /i/ is not consistent with the name of Applicant's representative, Alan Heimlich. Secondly, accordance with 37CFR1.4(d)(2)(ii), "the signer's name must be (B) Reasonably specific enough so that the identity of the signer can be readily recognized." The S-signature /i/ is not specific enough so that the identity of the signer can be readily recognized. Therefore, the signature is improper.

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With respect to Firstly

The Office states:

The amendment filed on 7/26/07 is unsigned or contains[sic] an improper signature in accordance with 37CFR1.4(d)(2)(i). Firstly, the S-signature /i/ is not consistent with the name of Applicant's representative, Alan Heimlich.

(Emphasis added.)

37 CFR 1.4(d)(2)(i) states:

(i) The S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and the person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (e.g., /Dr. James T. Jones, Jr./); and

Applicant submits that the Office has misinterpreted 37 CFR 1.4(d)(2)(i). 37 CFR 1.4(d)(2)(i) has NO requirement that the S-signature be consistent with the Applicant's representative. The requirement is clearly that the S-signature be inserted between forward slashes and contain only letters, Arabic numerals, spaces, commas, periods, apostrophes, and/or hyphens.

Applicant submits as previously presented that /i/ complies with 37 CFR 1.4(d)(2)(i).

With respect to Secondly

The Office states:

Secondly, accordance with 37CFR1.4(d)(2)(ii), "the signer's name must be (B) Reasonably specific enough so that the identity of the signer can be readily recognized." The S-signature /i/ is not specific enough so that the identity of the signer can be readily recognized. Therefore, the signature is improper.

First,

Applicant submits that the Office has referenced the wrong section.

The quote "(B) Reasonably specific enough so that the identity of the signer can be readily recognized." is in 37CFR1.4(d)(2)(iii).

Applicant will assume this is what the Office was referring to.

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Second,

Applicant submits that the Office has plucked section (B) out of context and improperly applied it.

37 CFR 1.4(d)(2)(iii) IN ITS ENTIRETY states:

(iii) The signer's name must be:

(A) Presented in printed or typed form preferably immediately below or adjacent the S-signature,  
**and**

(B) Reasonably specific enough so that the identity of the signer can be readily recognized.

(Emphases added.)

Applicant submits as previously presented that "Alan Heimlich" is the signer's name, is adjacent the S-signature AND is reasonably specific.

Conclusion - Paragraph 1

For all the above reasons, Applicant submits that the S-signature as submitted is in compliance with 37 CFR 1.4. Applicant therefore, respectfully requests rescission of the Notice of Non-Compliant Amendment and entry of the Amendment as filed.

## Paragraph 2

Paper 20080819 states in paragraph 2:

This Communication does not and will not reset the time period for filing a response perviously[sic] set forth. The time period set in the pervious[sic] Notice of Non-Compliant Amendment mailed on 9/14/07 remains. Applicant is given one month, or thirty (30) days, whichever is longer, from the mail date of the pervious[sic] Notice of Non-Compliant Amendment mailed on 9/14/07. Extensions of time are available under 37 CFR 1.136(a).

Applicant respectfully submits that the Office has created a Catch-22 situation for Applicant. Applicant has timely filed a substantive response to an Office Action, and has timely filed a response to the Notice regarding Non-Compliant Amendment and has diligently pursued prosecution. This paragraph now has placed Applicant's application as abandoned as a response is due within 6 months that has well passed before this Paper 20080619 was communicated.

Applicant submits that when the original notice of non-compliant S-signature was received, it did not detail why the S-signature was unacceptable. It made a broad general statement only. Applicant not knowing what was not in compliance responded with a well reasoned response detailing with specificity how Applicant believed that the S-signature as filed was in compliance with 37 CFR 1.4 and asking the Office to respond specifically pointing out where it was considered defective. The Office in the Paper 20080619

communicated this date finally detailed their reasoning. Applicant would like to respond and believes that preemptively declaring Applicant's application abandoned is not proper.

Applicant therefore respectfully requests that Applicant be given 30 days to submit a response (as herein this included communication) and that the application not be considered abandoned.

### CONCLUSION

For all the above reasons, Applicant submits that the signature as submitted is in compliance with 37 CFR 1.4. Applicant therefore, respectfully requests rescission of Paper 20080619 and entry of the Amendment as filed.

Communication via cleartext email is authorized.

Respectfully submitted,

Heimlich Law

06/26/2008

\_\_\_\_\_  
Date



\_\_\_\_\_  
Alan Heimlich / Reg 48808

Attorney for Applicant

Customer No. 40418

5952 Dial Way  
San Jose, CA 95129

Tel: 408 253-3860

Eml: [alanheimlich@heimlichlaw.com](mailto:alanheimlich@heimlichlaw.com)





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,780	10/24/2003	Douglas R. Swarts	6386.P001	1984
40418	7590	06/26/2008		
HEIMLICH LAW 5952 DIAL WAY SAN JOSE, CA 95129			EXAMINER LEE, CLOUD K	
			ART UNIT 3753	PAPER NUMBER
			NOTIFICATION DATE 06/26/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

alanheimlich@heimlichlaw.com  
sroberts@peloquinlaw.com

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS  
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10693780	10/24/2003	SWARTS, DOUGLAS R.	6386.P001

HEIMLICH LAW  
5952 DIAL WAY  
SAN JOSE, CA 95129

**EXAMINER**

CLOUD K. LEE

ART UNIT	PAPER
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3753	20080619
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DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

The amendment filed on 7/26/07 is unsigned or contains an improper signature in accordance with 37CFR 1.4(d)(2)(i). Firstly, the S-signature /i/ is not consistent with the name of Applicant's representative, Alan Heimlich. Secondly, accordance with 37CFR 1.4(d)(2)(ii), "the signer's name must be (B) Reasonably specific enough so that the identity of the signer can be readily recognized." The S-signature /i/ is not specific enough so that the identity of the signer can be readily recognized. Therefore, the signature is improper.

This Communication does not and will not reset the time period for filing a response perviously set forth. The time period set in the pervious Notice of Non-Compliant Amendment mailed on 9/14/07 remains. Applicant is given one month, or thirty (30) days, whichever is longer, from the mail date of the pervious Notice of Non-Compliant Amendment mailed on 9/14/07. Extensions of time are available under 37 CFR 1.136(a).

/John Rivell/  
Primary Examiner, Art Unit 3753

**To:** alanheimlich@heimlichlaw.com,sroberts@peloquinlaw.com,  
**From:** PAIR\_eOfficeAction@uspto.gov  
**Cc:** PAIR\_eOfficeAction@uspto.gov  
**Subject:** Private PAIR Correspondence Notification for Customer Number 40418

Jun 26, 2008 07:28:04 AM

Dear PAIR Customer:

HEIMLICH LAW  
5952 DIAL WAY  
SAN JOSE, CA 95129  
UNITED STATES

The following USPTO patent application(s) associated with your Customer Number, 40418 , have new outgoing correspondence. This correspondence is now available for viewing in Private PAIR. The official date of notification of the outgoing correspondence will be indicated on the form PTOL-90 accompanying the correspondence.

Application	Attorney Docket No.
10693780	6386.P001

To view your correspondence online or update your email addresses, please visit us anytime at <https://sportal.uspto.gov/secure/myportal/privatepair>. If you have any questions, please email the Electronic Business Center (EBC) at [EBC@uspto.gov](mailto:EBC@uspto.gov) or call 1-866-217-9197 during the following hours:

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Thank you for prompt attention to this notice,

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